

#### **IV. REMARKS**

##### **Status of the Claims**

Claims 1-10 are amended and new claims 11-16 are presented. Claims 1-16 are presented for further consideration.

##### **Summary of the Office Action**

Claims 1-7, and 10 stand rejected under 35USC102(e) on the basis of the cited reference Forslow, U.S. Patent No. 6,609,832. Claims 8 and 9 stand rejected under 35USC103(a) based on the reference Forslow in view of the cited article by Nichols. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

##### **Discussion of the Cited Reference**

The Examiner relies on the reference Forslow to support the rejection based on anticipation and as primary support for the rejection based on obviousness. The basic concept of the system of the cited reference is described at column 5, line 65 through column 6, line 7, as follows:

"Each application flow may have a corresponding quality of service request. Based on that corresponding quality of service, a determination is made whether a circuit-switched bearer or a packet-switched bearer is better suited to transport the application flow. The quality of service parameters specified by the application for an individual application flow are mapped to corresponding quality of service parameters for the selected one of the circuit-switched or packet-switched bearers.

The reference Forslow, therefore, provides a method for selecting a suitable bearer, either packet switched or bearer switched, for a flow based on a quality of service request. It is indicated

that a circuit-switched network is used with real time services and a packet-switched network is used with data transfer of non-real time information. According to Forslow, the quality of service request may include transfer speed, packet-specific delay and the need for buffering and the choice of bearer is made accordingly. The system of Forslow does not use quality service signaling at any phase for informing the network that a certain flow/stream uses a certain application level protocol, for example, RTP, to allow the network to optimize the transfer by compressing/stripping headers, multiplexing streams and other procedures. The purpose of Forslow is to select an appropriate bearer according to a quality service request. The purpose of the system of this application is to identify packets of a data stream from a particular application and apply optimization procedures appropriate to the application.

The system of Forslow does not, therefore support the rejection based on anticipation.

### **The Issue of Anticipation**

The Examiner is reminded that the anticipation analysis requires a positive answer to the question of whether the system of Forslow would infringe the claims of this application, if it were later.

All of the claims of this application are directed to a system capable of providing the following functions:

"causing the use of said at least one quality of service signalling protocol by said application to mark application-specific data streams,

identifying at the nodes of the communication network, on the basis of the quality of service signalling, packets

belonging to the data stream of said application, and the type of said packets,

subjecting said packets to optimization methods characteristic to said type."

Since the capability of providing the claimed features is not present in the system of the reference Forslow, there can be no infringement of the subject claims. Therefore the teaching of Forslow does not support the rejection based on anticipation with respect to any of the claims. Equivalent language appears in independent claim 10.

These arguments apply equally to the rejected dependent claims.

#### **The Issue of Obviousness**

It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application.


Applicant submits that the above described deficiencies of the primary reference Forslow are not remedied by the proposed combination with the teaching of the reference Nichols. The combined references do not therefore support a prima-facie case of obviousness. The modification of the teachings of Forslow or Nichols, in order to obtain the invention, as described in the claims submitted herein, would not have been obvious to one skilled in the art.

The above arguments apply equally to the rejected dependent claims.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

A check in the amount of \$1,020.00 is enclosed for a three month extension of time. The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,

  
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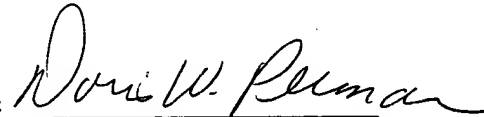
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